IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 355 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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SHAH PRAKASCHANDRA SHANTILAL

Versus

DY COLLECTOR

Appearance:

1. Special Civil Application No. 355 of 2001

MR SL VAISHYA for Petitioner No. 1

MS BR GAJJAR, AGP for Respondent No. 1-2

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 14/08/2001

ORAL JUDGEMENT

1. Shah Prakashchandra Shantilal, petitioner has filed this petition praying for quashing and setting aside the order dated 28th May, 1999, passed by the Deputy Collector, Stamp Duty Valuation, Palanpur, and also to quash and set aside the order dated 28th

February, 2000, passed by the Chief Controlling Officer, Gandhinagar.

2. In both the orders, the authorities have not given any reasons as to why they have arrived at the market value of the property at higher price. It has been stated in the order that the original market price of the property in question was assessed at Rs.95,000/whereas the authority come to the conclusion the market value of the property was affixed at Rs.3,55,600/- and assessed the stamp duty at Rs.49,784/-. It has been stated that as the petitioner has paid only Rs.13,300/the difference amount of stamp duty Rs.36,484/has not been paid by the petitioner. The same has been confirmed by the appellate authority. It has been contended that the authority has not given any reasons as to why they have arrived at such value. It has been contended that respondent authority is exercising the quasi judicial power so as per principles of natural justice the authority is bound to give reasons in support of their contention.

3. Ms.B.R.Gajjar, learned AGP for the respondents has contended that now the Government has issued circular dated 31st July, 2001, in which it has been directed that when the market value of the property is to be assessed, the authority - Superintendent of Stamp Duty has directed the Deputy Collector that when the authority decided to fix the market value of the property, the said process of reasoning is a quasi judicial process and the authority must give reasons in support of the same. The authority must also consider as to why they have not considered the contentions raised by the petitioner in this behalf and on what ground they have assessed the value of the property in question.

4. In view of the said circular, the impugned orders passed by the respondents authorities is contrary to and inconsistent with the present circular which has been issued by the Government in this behalf, and therefore, in view of the same, the petition is allowed. The impugned orders passed by the respondents authorities is quashed and set aside. In the facts and circumstances of the case the petition is allowed. Rule is made absolute with no order as to costs.

(K.M. Mehta, J.)

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